



John Elias Baldacci
Governor

State of Maine
Department of Human Services
11 State House Station
Augusta, Maine
04333-0011

John R. Nicholas
Commissioner

June 29, 2004

TO: Interested Parties

FROM: Christine Zukas-Lessard, Acting Director, Bureau of Medical Services

SUBJECT: Proposed Rule: MaineCare Benefits Manual, Section 58, Chapters II and III, Licensed Clinical Social Worker and Licensed Clinical Professional Counselor Services.

This proposed rule will add Licensed Marriage and Family Therapists as approved providers of prior authorized professional assessment, counseling and therapeutic services to children or adults referred by the Bureau of Child and Family Services or the Bureau of Elder and Adult Services. For billing purposes, the Prior Authorization number is required on the HCFA 1500 claim form. Other changes reflect the standardization of MaineCare terminology. Chapter III reflects technical changes.

Rules and related documents may be reviewed and printed from the Bureau of Medical Services website at <http://www.state.me.us/bms/rulemaking/> or, for a fee, interested parties may request a paper copy of rules by calling Lucille Weeks at 207-287-9368.

Notice of Agency Rule-Making - Proposal

Agency: Department of Human Services, Bureau of Medical Services

Chapter Number And Title: Proposed Rule-MaineCare Benefits Manual-
Chapters II and III, Section 58, Licensed Clinical Social Worker and Licensed
Clinical Professional Counselor Services.

Proposed rule number:

Concise Summary: This proposed rule will add Licensed Marriage and Family Therapists as approved providers of prior authorized professional assessment, counseling and therapeutic services to children or adults referred by the Bureau of Child and Family Services or the Bureau of Elder and Adult Services. The proposed rule updates standard terminology throughout the rule and deletes obsolete text regarding Policies and Procedures and Billing Instructions with references to Chapter I, General Administrative Policies and Procedures. Chapter III reflects technical changes.

This rule will ☐ **will not** ☒ **have a fiscal impact on municipalities**

Statutory Authority: 22 M.R.S.A., § 42 § 3173. Resolves 2003, Ch.107

Public Hearing: **Date:** July 20, 2004 **Time:** 11:00 Am

Location: Conference Room 4, Department of Human Services,
442 Civic Center Drive, Augusta, ME. 04333-0011

Any interested party requiring special arrangements to attend the hearing must contact the agency person listed below before July 14, 2004.

Deadline for Comments: July 30, 2004

Agency Contact Person: Greg Nadeau

Agency : Bureau of Medical Services
 Division of Policy and Provider Services
 442 Civic Center Drive
 11 State House Station
 Augusta, ME 04333-0011

Telephone: (207) 287-9367 FAX: (207) 287-9369, TTY: 1-800-423-4331 or
 (207) 287-1828 (Deaf/Hard of Hearing)

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MAINECARE BENEFITS MEDICAL ASSISTANCE MANUAL
CHAPTER II

SECTION 58 **LICENSED CLINICAL SOCIAL WORKER, AND** 5/3/93
LICENSED CLINICAL PROFESSIONAL COUNSELOR AND LICENSED MARRIAGE AND FAMILY
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58.01 DEFINITIONS

58.01-1 Counseling Services Counseling Services for the purposes of this section shall mean prior authorized professional assessment, counseling, and therapeutic services to children or adults by a Licensed Clinical Social Worker, ~~or~~ Licensed Clinical Professional Counselor or Licensed Marriage and Family Therapist; the purposes of which are to identify and treat the personal and family factors which resulted in abuse, neglect, or exploitation to the ~~client~~ MaineCare member.

For parents and caretakers, this means:

1. assisting them in understanding the connection between these factors and the harm which resulted to the ~~client~~ member; and
2. developing relationship and management techniques which will not cause harm to the ~~client~~ member.

For ~~clients~~ members, this means treatment to alleviate the dysfunctional behaviors which:

1. appear to be the result of harm; and/or
2. appear to be part of the individual or family dynamics which resulted in the harm.

A byproduct of the therapy may be a more positive orientation, relief of stress, and growth toward more integrated and independent levels of functioning.

58.01-2 Family Family is defined, for the purposes of this section, as a unit of, at a minimum, the ~~recipient~~ member and at least one parent, foster parent or guardian, but which may also include other relatives or significant others, whether or not they are living in the same household.

~~58.01-3 Department The Department is the Department of Human Services.~~

58.02 ELIGIBILITY FOR CARE

~~The following recipients are eligible for Licensed Clinical Social Worker and Licensed Clinical Professional Counselor Services as set forth in this manual:~~

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58.02 ELIGIBILITY FOR CARE (Cont.)

1. ~~Categorically needy recipients, whose eligibility is shown on the Medical Eligibility Card as MM; and~~
2. ~~Medically needy recipients, whose eligibility is shown on the Medical Eligibility Card as MH.~~

Individuals who meet the financial eligibility criteria as set forth in the MaineCare Eligibility Manual are eligible for medically necessary covered services as set forth in this manual. Some members may have restrictions on the type and amount of services they are eligible to receive.

58.03 DURATION OF CARE

~~Each Categorically and Medically Needy recipient of Title XIX is eligible for covered services that are medically necessary and provided within the guidelines of this Section.~~

Each eligible member may receive covered services which are medically necessary and provided within the guidelines of this Section. The Department reserves the right to request additional information to evaluate medical necessity.

58.04 PRIOR AUTHORIZATION

All services require prior authorization as outlined below.

A caseworker or casework supervisor from the Bureau of Child and Family Services or Bureau of Elder and Adult Services refers a ~~recipient~~ member to a counseling provider and initiates the prior authorization process.

The provider will receive a ~~P~~prior ~~A~~authorization letter containing an authorization number and a description of the type, duration and costs of the services authorized. The provider will need to retain this letter in the case record for audit purposes. Questions about the content of the Prior Authorization letter can be directed to the authorizing caseworker or the regional administration office that issued the letter. The provider is responsible for providing services in accordance with the Prior Authorization letter. ~~While a~~All services require prior authorization. The Prior Authorization number is not required on the HCFA 1500 claim form. All extensions of services beyond the original authorization must be prior authorized by this same procedure.

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58.05 COVERED SERVICES

A covered service is a prior authorized service for which payment to a provider is permitted under this section of the MaineCare Medical Assistance Benefits Manual. Covered services include:

- A. Counseling services (refer to Section 58.01-1), which may be provided through:
1. Individual Psychotherapy, which is a method of treatment of mental illness and emotional disorders using the interaction between a therapist and a patient member to promote emotional or psychological change to alleviate mental disorder; or to effect a change in the attitude and behavior of a client member;
 2. Family Psychotherapy, which for purposes of this section, is treatment carried out to ameliorate a problem resulting from a conflict involving at least one client member and requires the presence of two or more family members, at least one of whom must be Medicaid MaineCare eligible; or
 3. Group Psychotherapy, which is intended to utilize a group processes to facilitate individual change. Group Psychotherapy services provided by a co-therapist must be billed at the rate for group therapy by a counseling co-therapist.
- B. Collateral contacts, which must be face-to-face contacts on behalf of the recipient member by a Licensed Clinical Social Worker, ~~or~~ Licensed Clinical Professional Counselor or Licensed Marriage and Family Therapist to seek information, or discuss the recipient's member's case, with professionals, caregivers, or others included in the service plan in order to achieve continuity of care, coordination of services and the most appropriate mix of services for the recipient member. The recipient member need not be present during collateral contacts. Consultations with referring agencies are not considered collateral contacts.

Discussions or meetings between staff of the same agency or contracted agency are not ~~to be~~ considered collateral contacts unless ~~such~~ they ~~discussions~~ are part of a team meeting which includes other professionals and/or caregivers who are not employed by the same agency or clinic, but are included in the treatment plan.

~~Consultations are discussions with representatives of the referring agency about findings, progress, and prognosis, and include the preparation of reports as requested by the referring agency.~~

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58.05 COVERED SERVICES (Cont.)

C. Evaluations:

1. Psychosocial evaluations are limited to the determination and examination of the psychosocial situation of an individual or group related to interpersonal and interpersonal stress, family background, family interaction, living arrangements and socioeconomic problems and treatment, evaluation, plans and goals, including the diagnosis of mental illness and emotional disorders for the purpose of treatment and therapeutic intervention, but excluding the diagnosis of organic mental illness or treatment of any illness by organic therapy.
2. Adult protective evaluations assess:
 - a. the ~~client's~~ member's mental capacity (global or specific); the effect of the ~~client's~~ member's physical disabilities on mental capacity; the ~~client's~~ member's ability to make and communicate responsible decisions; including ability to consent to sexual activity;
 - b. the ~~client's~~ member's physical functioning capacity including: the effects of any physical disabilities on the ~~client's~~ member's ability to meet his or her own physical and functional needs; and
 - c. the caretaker's capacity including: the ability to understand and provide the necessary care to the incapacitated or dependent adult.
3. Child and family service evaluations assess:
 - a. the parent's capacity, in a time frame to meet the child's needs, including:
 - the ability to care for and protect the child;
 - amenability to treatment;
 - attachment or bonding to the child;
 - b. the child's:
 - bonding or attachment to each parent and/or other caretakers;
 - the extent and severity of abuse or neglect;
 - treatment needs (nurturing, placement);
 - amenability to treatment;

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58.05 COVERED SERVICES (Cont.)

- c. the perpetrator, including:
- the extent of danger to ~~client~~ member in question; and
 - amenability to treatment.

Although ~~Medicaid~~ MaineCare-eligible ~~recipients~~ members are the focus of services provided, other non-~~Medicaid~~ MaineCare-eligible family members, including parents or foster parents or guardians, may receive family counseling services that directly benefit the ~~recipient~~ member and if included in the ~~recipient's~~ member's treatment plan and only if the ~~Medicaid~~ MaineCare-eligible ~~recipient~~ member is present and participating in the family counseling.

58.06 NONCOVERED SERVICES

Refer to Chapter I, General Administrative Policies and Procedures for rules governing non-covered services in general. Other services not specifically included in "Covered Services" are noncovered.

~~58.06-1 Academic Services~~

~~Any programs, services, or components of service provided to recipients which are academic in nature are not reimbursable by Medicaid. Academic services are those traditional subjects such as: science, history, literature, foreign languages, and mathematics.~~

~~58.06-2 Vocational Services~~

~~Any programs, services, or components of service provided to clients of which the basic nature is to provide a vocational program are not reimbursable by Medicaid. Vocational services relate to organized programs directly related to the preparation of individuals for paid or unpaid employment, such as vocational skills training or sheltered employment.~~

~~58.06-3 Socialization or Recreational Services~~

~~Any programs, services, or components of services of which the basic nature is to provide opportunities for socialization, or those activities which are recreational in nature are not reimbursable under this section. These noncovered services include, but are not limited to: picnics, dances, ball games, parties, field trips, and social clubs.~~

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58.06 NONCOVERED SERVICES (Cont.)

~~58.06-4 Other Services not specifically included in "Covered Services."~~

58.07 LIMITATIONS

58.07-1 Psychosocial evaluations are limited to a total of five (5) hours; four (4) of hours evaluation time and one (1) hour of report writing.

58.07-2 Adult protective or child and family evaluations are limited to a total of seven (7) hours; five (5) hours of examination/evaluation time and two (2) hours for report writing.

~~58.07-3 Consultations are limited to adult protective or child and family service evaluations.~~

58.08 POLICIES AND PROCEDURES

58.08-1 Setting

All services are intended to be provided in a setting appropriate to the recipient's member's needs.

58.08-2 Approved Staff

A. Licensed Clinical Social Worker

A Clinical Social Worker must be currently licensed by the Maine State Board of Social Worker Licensure to practice as a Licensed Clinical Social Worker or as a Certified Social Worker-Independent Practice.

Wherever Licensed Clinical Social Worker is used in this policy, Certified Social Worker-Independent Practice may be used interchangeably.

B. Licensed Clinical Professional Counselor

A Clinical Professional Counselor must be currently licensed by the Maine State Board of Counseling Professional Licensure to practice as a Licensed Clinical Professional Counselor.

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58.08 **POLICIES AND PROCEDURES (Cont.)**

C. Licensed Marriage and Family Therapist

A Licensed Marriage and Family Therapist must be currently licensed by the Maine State Board of Counseling Professional Licensure to practice as a Licensed Marriage and Family Therapist.

58.08-3 Clinical records

A. Service Documentation

1. Psychosocial Evaluation

A psychosocial evaluation, which must include a direct encounter with the ~~client member~~, shall be performed and results included in the ~~client's member's~~ clinical record. The psychosocial evaluation must include the ~~client's member's~~ medical and social history and the ~~client's member's~~ diagnosis, if applicable.

2. Individual Treatment/Service Plan

Based on the psychosocial evaluation of the ~~recipient member~~, a comprehensive written plan of care shall be developed, including the defined goals and outcomes of treatment. ~~This plan shall be in writing and shall identify~~ services to be provided.

Based on the psychosocial evaluation of the ~~recipient member~~, a comprehensive written plan of care shall be developed, including the defined goals and outcomes of treatment. ~~This plan shall be in writing and shall identify~~ services to be provided.

3. Progress Notes

Written progress notes must be maintained in chronological order for each counseling service billed.

Notes must include: the servicing provider, date of service, duration of service and progress the ~~recipient member~~ is making

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58.08 POLICIES AND PROCEDURES (Cont.)

toward goals. All notes must have original signatures by the individual who performed the service.

Documentation must be made in the ~~recipient's~~ member's records to justify the clinical need for all extensions of counseling services.

The clinical record must also specifically include written information or reports on all medical consultations, psychometric testing and psychosocial evaluations done by licensed professionals, collateral contacts made on behalf of the ~~recipient~~ member (including the name and relationship to ~~recipient~~ member) and all authorization letters by the Department of Human Services.

B. Discharge/Closing Summary

A closing summary shall be signed and dated and included in the clinical record. The summary shall include:

1. Reasons for terminating counseling services.
2. Provisions for referral of ~~recipient~~ member to other programs and community resources upon case closure, when appropriate.
3. Determination of whether the counseling services were successfully or unsuccessfully completed, and the reasons for the determination.

58.08-4 Surveillance and Utilization Review

~~A. The Division of Surveillance and Utilization Review monitors the medical services provided and determines the appropriateness and necessity of the services.~~

~~B. The Department and its professional advisors regard the maintenance of adequate treatment and service records as essential in substantiating the delivery of quality care. In addition, providers should be aware that treatment and service records are key documents used for post payment reviews. In the absence of proper and complete records, no payment will be made and payments previously made may be recovered in accordance with Chapter I of the Maine Medical Assistance Manual.~~

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58.08 POLICIES AND PROCEDURES (Cont.)

~~C. Upon request, the provider must furnish to the Department of Human Services, without additional charge, the records, or copies thereof, corresponding to and substantiating services billed by the provider.~~

~~D. The Department expects that records and other pertinent information will be transferred, upon request and with the parent, legal guardian or custodian's signed release of information, to other clinicians involved in the patient's care.~~

Refer to Chapter I, General Administrative Policies and Procedures of the MaineCare Benefits Manual for a definition and description of Surveillance and Utilization Review.

58.09 REIMBURSEMENT

~~Reimbursement for covered services is available for covered services when provided in accordance with these rules. Services provided on or after July 19, 1994, may be reimbursed when documentation is provided to the Department's satisfaction that substantiates service provision as well as any previous payments for these services.~~

- A. The amount of payment for services rendered shall be the lowest of the following:
1. the appropriate amount listed in Chapter III of this Section;
 2. the lowest amount allowed by the Medicare Part B carrier; or
 3. the licensed clinical social worker's ~~or~~ licensed clinical professional counselor's or licensed marriage and family therapist's usual and customary charge.
- B. In accordance with Chapter I of the ~~Maine Medical Assistance~~ MaineCare Benefits Manual, it is the responsibility of the provider to seek payment from other third-party payors prior to billing the ~~Medical Assistance~~ MaineCare Program for a rendered service.

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58.09 REIMBURSEMENT (Cont.)

- C. Any reimbursement received in excess of the amount authorized, as evidenced by the Prior Authorization letter, is subject to repayment to the Department.
- D. Licensed Clinical Social Workers, ~~and~~ Licensed Clinical Professional Counselors, or Licensed Marriage and Family Therapists when providing covered counseling services, as described in Section 58.01, shall be reimbursed for interpreter services provided to ~~Medicaid recipients~~ MaineCare members when these services are necessary to communicate effectively with the ~~recipient member~~ regarding health-care needs. Interpreter services for members who are deaf/hard-of-hearing, or who need language interpreters are to be provided in accordance with the guidelines specified in Chapter I of the MaineCare Benefits Manual.

~~Providers of interpreter services must be certified by the Registry of Interpreters for the Deaf, Inc., or working under the supervision of an interpreter who is certified by the Registry of Interpreters for the Deaf, Inc.~~

~~Reimbursement will be available for an interpreter's hourly minimum charge and beyond this first hour, reimbursement is based on the quarter hour including associated travel to and from the location where the services are performed.~~

~~Additional reimbursement for deaf Medicaid recipients who have non-standard signing, is available consisting of a relay interpreting team including a deaf interpreter, for whom signing is his/her native language, working with a hearing interpreter. In such cases, reimbursement for two interpreters will be made.~~

~~Reimbursement will be at the interpreter's usual and customary charge not to exceed the amounts listed in Chapter III of this Section.~~

~~When requesting reimbursement for interpreter Services, a statement of verification regarding the interpreter's certification and cost of performing the services shall be documented in the recipient's record.~~

58.10 CONFIDENTIALITY

The disclosure of information regarding ~~individuals~~ members participating in the ~~Medicaid~~ MaineCare program is strictly limited to purposes directly connected with the administration of the ~~Medicaid~~ MaineCare program. Providers shall maintain the confidentiality of information regarding these individuals in accordance with 42 CFR § 431 et seq. and other applicable sections of state and federal laws and regulations.

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58.11 **BILLING INSTRUCTIONS**

Billing must be accomplished in accordance with the Department's "~~Maine Medicaid/Maine Health Program~~ Billing Instructions for the HCFA-1500 Claim Form(12/90)."

Only one eligible ~~recipient's Medicaid~~ member's MaineCare number shall be billed for family psychotherapy regardless of the number of eligible ~~recipients~~ members within the family receiving services.

Each eligible ~~recipient's~~ member's ~~Medicaid~~ MaineCare number shall be billed for group psychotherapy.

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PROCEDURE CODE	DESCRIPTION	<u>Prior Authorized</u>	<u>Maximum Allowance</u>
CODES FOR RECIPIENTS <u>MEMBERS</u> AUTHORIZED THROUGH THE BUREAU OF CHILD AND FAMILY SERVICES			
Z9715	1/4-HOUR COLLATERAL SERVICES <u>This procedure code will change to: 90889-HU. This code must have a UK modifier if the member is not present during service. This code will be billed in 1/4 hr unit increments and will become effective when a written notice is sent by the Department.</u>	<u>YES</u>	\$10.60
Z9716	1/4-HOUR GROUP PSYCHOTHERAPY <u>This procedure code will change to: 90853-HU. This code must have a HT modifier for co-therapists. This code will become effective when a written notice is sent by the Department. The new rate will be \$8.83 per session.</u>	<u>YES</u>	\$2.65
Z9719	<i>1/4 HOUR GROUP PSYCHOTHERAPY BY A CO-THERAPIST</i>	<u>YES</u>	\$2.65
Z9717	1/4-HOUR INDIVIDUAL PSYCHOTHERAPY <u>This procedure code will change to: 90804-HU. This code will become effective when a written notice is sent by the Department. The new rate will be \$17.67 per 20-30 minute session.</u>	<u>YES</u>	\$10.60
Z9718	1/4-HOUR FAMILY PSYCHOTHERAPY <u>This procedure code will change to: 90847-HU. This code will become effective when a written notice is sent by the Department. The new rate will be \$35.33 per session.</u>	YES	\$10.60
Z9705	1/4-HOUR PSYCHOSOCIAL EVALUATION THIS PROCEDURE CODE WILL CHANGE TO 90801-HU BILLED ¼ HR UNITS. THIS CODE WILL BECOME EFFECTIVE WHEN A WRITTEN NOTICE IS SENT BY THE DEPARTMENT.	<u>YES</u>	\$12.50

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PROCEDURE CODE	DESCRIPTION	<u>Prior Authorized</u>	<u>Maximum Allowance</u>
Z9720	1/4-HOUR CHILD AND FAMILY SERVICE EVALUATION <u>This procedure code will change to: H1011-HU billed in ¼ units. This code will become effective when a written notice is sent by the Department.</u>	<u>YES</u>	\$12.50
Z9721	1/4 HOUR CONSULTATION	<u>YES</u>	\$12.50
Z9707	1/4 HOUR INTERPRETER SERVICES		\$7.50
CODES FOR RECIPIENTS <u>MEMBERS</u> AUTHORIZED THROUGH THE BUREAU OF ELDER AND ADULT SERVICES			
Z9708	1/4-HOUR COLLATERAL SERVICES <u>This procedure code will change to 90887-HC This code will become effective when a written notice is sent by the Department. This code will be billed in ¼ increments.</u>	<u>YES</u>	\$10.60
Z9709	1/4-HOUR GROUP PSYCHOTHERAPY	<u>YES</u>	\$2.65
Z9722	1/4-HOUR GROUP PSYCHOTHERAPY BY A CO-THERAPIST	<u>YES</u>	\$2.65
Z9710	1/4-HOUR INDIVIDUAL PSYCHOTHERAPY <u>This procedure code will change to: 90804-HC. These codes will become effective when a written notice is sent by the Department. The rate will be \$17.67 per 20-30 minute session.</u>	<u>YES</u>	\$10.60
Z9711	1/4-HOUR FAMILY PSYCHOTHERAPY <u>This procedure code will change to: 90847-HC. This code will become effective when a written notice is sent by the Department. The new rate will be \$35.33 per session.</u>	<u>YES</u>	\$10.60

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PROCEDURE CODE	DESCRIPTION	<u>Prior Authorized</u>	<u>Maximum Allowance</u>
Z9712	1/4-HOUR PSYCHOSOCIAL EVALUATION	<u>YES</u>	\$12.50
	<u>This code will change to: 90801-HC billed in ¼ hr units. This code will become effective when a written notice is sent by the Department.</u>		
Z9723	1/4-HOUR ADULT PROTECTIVE EVALUATION	<u>YES</u>	\$12.50
Z9724	1/4 HOUR CONSULTATION <u>This procedure code will change to: 99241 HC. This code will become effective when a written notice is sent by the Department.</u>	<u>YES</u>	\$12.50
Z9714	1/4 HOUR INTERPRETER SERVICES		\$ 7.50

THE CPT REIMBURSEMENT CODES ABOVE WILL BE ACTIVATED UPON NOTICE TO PROVIDERS FROM THE DEPARTMENT. THESE CODES WILL REPLACE THE LOCAL CODES INDICATED ABOVE